In Re Adams, et al.
Application No. 10/052,798
Appeal Brief

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In Re Adams, et al.
Application No. 10/052,798
Appeal Brief

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application No.:	10/052,798
Applicant:	Adams, et al.
Filed:	November 2, 2001
Group Art Unit:	1646
Examiner:	Eileen O'Hara
Docket No.:	22338-00904/P1101R2D1

APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Washington, D.C. 20231

Dear Sir:

A Notice of Appeal was filed on September 16, 2005. A four-month Extension of Time was previously filed with a response on March 15, 2006. Accordingly, Applicant submits that this Appeal Brief filed under 37 CFR § 41.37, which is being filed with an additional one-month Extension of Time, is timely filed. Appellant requests the Commissioner to charge Deposit Account No. 18-1260 for the $500.00 Appeal Brief fee due under 37 CFR 41.20(b)(2).

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1. REAL PARTY IN INTEREST

The real party in interest in this appeal is Genentech, Inc.

2. RELATED APPEALS AND INTERFERENCES

The appeals or interferences known to the Appellant, the Appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or to have a bearing on the Board's decision in the pending appeal may include the following:

Patent Interference Nos: 105,361; 105,240; 105,380; and 105,381.

3. STATUS OF CLAIMS

Claims 1-64 were originally filed. Claims 65-97 were added, claims 59-62 were amended and original claims 1-58 and 63-64 were cancelled at the time of filing in a preliminary amendment. Claims 98-146 were added and entered into the application during prosecution. *See, e.g.*, Advisory Action dated November 23, 2005. The claims involved in this appeal, claims 59-62 and 64-146, are presented in the claim appendix attached hereto.

4. STATUS OF AMENDMENTS

There are no outstanding amendments.

5. SUMMARY OF CLAIMED SUBJECT MATTER

- In one aspect, the present invention relates to methods of inducing apoptosis in mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to Apo-2 polypeptide consisting of the contiguous amino acid residues 1 to 411 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cancer cell *in vivo* or *ex vivo*. *See, e.g.*, SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

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- In another aspect, the present invention relates to methods of treating mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to Apo-2 polypeptide consisting of the contiguous amino acid residues 1 to 411 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cancer cell *in vivo* or *ex vivo*. *See, e.g.*, SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

- In another aspect, the present invention relates to methods of inducing apoptosis in mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide consisting of amino acids 54 to 182 SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*. *See, e.g.*, SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

- In another aspect, the present invention relates to methods of inducing apoptosis in mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide consisting of amino acids 1 to 182 of SEQ ID:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*. *See, e.g.*, SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

- In another aspect, the present invention relates to methods of treating mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2

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polypeptide consisting of amino acids 54 to 182 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*. *See, e.g.*, SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

- In another aspect, the present invention relates to methods of treating mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide consisting of amino acids 1 to 182 of SEQ ID NO: 1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*. *See, e.g.*, SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

- In another aspect, the present invention relates to methods of inducing apoptosis in mammalian cells expressing Apo-2 receptor comprising exposing mammalian cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody, wherein said antibody stimulates apoptosis in said mammalian cells upon its binding to said Apo-2 receptor, and wherein said antibody binds to an Apo-2 receptor polypeptide having at least about 80% sequence identity to SEQ ID NO:1. *See, e.g.*, SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

- In another aspect, the present invention relates to methods of treating cancer, comprising exposing mammalian cancer cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody, wherein said antibody stimulates apoptosis in said cells upon its binding to said Apo-2 receptor, and wherein said antibody binds to an Apo-2 receptor polypeptide having at least about 80% sequence identity to SEQ ID NO:1. *See, e.g.*, SEQ

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ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

- In another aspect, the present invention relates to methods of inducing apoptosis in mammalian cells expressing Apo-2 receptor comprising exposing mammalian cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody which (a) binds to Apo-2 polypeptide consisting of the contiguous amino acid residues 1 to 411 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*. *See, e.g.,* SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

- In another aspect, the present invention relates to methods of inducing apoptosis in mammalian cells expressing Apo-2 receptor comprising exposing mammalian cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide which consists of amino acid residues 54 to 182 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*. *See, e.g.,* SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

- In another aspect, the present invention relates to methods of treating cancer, comprising exposing mammalian cancer cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody which (a) binds to Apo-2 polypeptide consisting of the contiguous amino acid residues 1 to 411 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cancer cell *in vivo* or *ex vivo*. *See, e.g.,* SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

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- In another aspect, the present invention relates to methods of treating cancer, comprising exposing mammalian cancer cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide which consists of amino acid residues 54 to 182 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*. *See, e.g.*, SEQ ID NO:1; Figures 1 to 16; pages 12, line 37 to page 14, line 36; page 16, line 21 to page 19, line 14; page 34, lines 28 to page 35, line 26; page 47, lines 24 to page 61; pages 62 to 88.

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether the provisional rejection of pending claims 59-62, 65-75, 79-89 and 93-97 (and the objection to claims 76-78 and 90-92 as depending thereon) for obviousness-type double patenting over claims 1 to 5 and 10 to 47 of U.S.S.N. 09/396,710 ("the '710 application) is proper.

7. ARGUMENT

The only rejection pending in the application on appeal is a provisional double patenting rejection based on claims that were pending, prior to April 14, 2006, in the '710 application. No other rejection has been maintained by the Examiner.

On April 14, 2006, the Appellant expressly abandoned the '710 application. A copy of the express abandonment and its proof of filing is provided in the Evidence Appendix.

As noted on the letter expressly abandoning the '710 application, the express abandonment of the '710 application is not an abandonment of subject matter contained in that application. Moreover, Appellant notes that a continuation application claiming the benefit of the applications to which the '710 application claims benefit under 35 U.S.C. §120 was filed on April 13, 2006. The April 13, 2006 continuation contained a preliminary amendment cancelling all original claims and presenting new claims. None of the new claims added by the April 13,

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2006 preliminary amendment correspond to the claims previously pending in the '710 application. In addition, the claims added by the April 13, 2006, preliminary amendment correspond to claims previously held by the Examiner to be drawn to a patentably distinct invention relative to the claims that are the subject of the present appeal.

The abandonment of the '710 application and the absence of any other pending application containing claims that correspond to the '710 application removes the basis of the provisional double-patenting rejection of the claims pending in the application on appeal. As such, the only ground for rejection of the appealed claims is moot. It is respectfully submitted that the provisional rejection should be withdrawn and the pending claims passed to issue.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Appellant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 18-1260** referencing docket no. 2233800904. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: April 17, 2006 By: _____

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8. CLAIM APPENDIX

59. (previously presented) A method of inducing apoptosis in mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to Apo-2 polypeptide consisting of the contiguous amino acid residues 1 to 411 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cancer cell *in vivo* or *ex vivo*.

60. (previously presented) The method of claim 59 wherein said antibody comprises a single-chain antibody.

61. (previously presented) A method of treating mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to Apo-2 polypeptide consisting of the contiguous amino acid residues 1 to 411 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cancer cell *in vivo* or *ex vivo*.

62. (previously presented) The method of claim 61 wherein said antibody comprises a single-chain antibody.

65. (previously presented) A method of inducing apoptosis in mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide consisting of amino acids 54 to 182 SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*.

66. (previously presented) A method of inducing apoptosis in mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide consisting of amino acids 1 to 182 of SEQ ID:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*.

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67. (previously presented) A method of treating mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide consisting of amino acids 54 to 182 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*.

68. (previously presented) A method of treating mammalian cancer cells comprising exposing mammalian cancer cells to an effective amount of monoclonal antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide consisting of amino acids 1 to 182 of SEQ ID NO: 1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*.

69. (previously presented) The method of claim 59, 65, or 66, wherein said antibody is a chimeric antibody.

70. (previously presented) The method of claim 59, 65, or 66, wherein said antibody is a humanized antibody.

71. (previously presented) The method of claim 59, 65, or 66, wherein said antibody is a human antibody.

72. (previously presented) The method of claim 59, 65, or 66, wherein said antibody comprises an Fab fragment.

73. (previously presented) The method of claim 59, 65, or 66, wherein said antibody comprises a scFv fragment.

74. (previously presented) The method of claim 59, 65, or 66, wherein said antibody comprises a F(ab')2 fragment.

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75. (previously presented) The method of claim 59, 65, or 66, wherein said antibody binds to the same epitope as the epitope to which the monoclonal antibody produced by the hybridoma cell line deposited as ATCC accession number HB-12456 binds.

76. (previously presented) The method of claim 59, 65, or 66, wherein said antibody comprises one or more complementary determining region (CDR) amino acid sequences of the 16E2 antibody shown in Figure 16 (SEQ ID NO:9).

77. (previously presented) The method of claim 59, 65, or 66, wherein said antibody comprises one or more complementary determining region (CDR) amino acid sequences of the 20E6 antibody shown in Figure 16 (SEQ ID NO:10).

78. (previously presented) The method of claim 59, 65, or 66, wherein said antibody comprises one or more complementary determining region (CDR) amino acid sequences of 24C4 antibody shown in Figure 16 (SEQ ID NO:11).

79. (previously presented) The method of claim 59, 65, or 66, wherein said antibody is fused to an epitope tag sequence.

80. (previously presented) The method of claim 59, 65, or 66, wherein the cancer cells are colon or colorectal cancer cells.

81. (previously presented) The method of claim 59, 65, or 66, wherein the cancer cells are lung cancer cells.

82. (previously presented) The method of claim 59, 65, or 66, wherein the cancer cells are breast cancer cells.

83. (previously presented) The method of claim 61, 67, or 68, wherein said antibody is a chimeric antibody.

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84. (previously presented) The method of claim 61, 67, or 68, wherein said antibody is a humanized antibody.

85. (previously presented) The method of claim 61, 67, or 68, wherein said antibody is a human antibody.

86. (previously presented) The method of claim 61, 67, or 68, wherein said antibody comprises an Fab fragment.

87. (previously presented) The method of claim 61, 67, or 68, wherein said antibody comprises a scFv fragment.

88. (previously presented) The method of claim 61, 67, or 68, wherein said antibody comprises a F(ab') 2 fragment.

89. (previously presented) The method of claim 61, 67, or 68, wherein said antibody binds to the same epitope as the epitope to which the monoclonal antibody produced by the hybridoma cell line deposited as ATCC accession number HB-12456 binds.

90. (previously presented) The method of claim 61, 67, or 68, wherein said antibody comprises one or more complementary determining region (CDR) amino acid sequences of the 16E2 antibody shown in Figure 16 (SEQ ID NO:9).

91. (previously presented) The method of claim 61, 67, or 68, wherein said antibody comprises one or more complementary determining region (CDR) amino acid sequences of the 20E6 antibody shown in Figure 16 (SEQ ID NO:10).

92. (previously presented) The method of claim 61, 67, or 68, wherein said antibody comprises one or more complementary determining region (CDR) amino acid sequences of the 24C4 antibody shown in Figure 16 (SEQ ID NO:11).

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93. (previously presented) The method of claim 61, 67, or 68, wherein said antibody is fused to an epitope tag sequence.

94. (previously presented) The method of claim 61, 67, or 68, wherein said mammalian cancer cells are exposed to chemotherapy or radiation therapy.

95. (previously presented) The method of claim 61, 67, or 68, wherein the cancer cells are colon or colorectal cancer cells.

96. (previously presented) The method of claim 61, 67, or 68, wherein the cancer cells are lung cancer cells.

97. (previously presented) The method of claim 61, 67, or 68, wherein the cancer cells are breast cancer cells.

98. (New) A method of inducing apoptosis in mammalian cells expressing Apo-2 receptor comprising exposing mammalian cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody, wherein said antibody stimulates apoptosis in said mammalian cells upon its binding to said Apo-2 receptor, and wherein said antibody binds to an Apo-2 receptor polypeptide having at least about 80% sequence identity to SEQ ID NO:1.

99. (New) The method of claim 98 wherein said Apo-2 agonist antibody is a monoclonal antibody.

100. (New) The method of claim 98 wherein said agonist antibody is a chimeric antibody.

101. (New) The method of claim 98 wherein said agonist antibody is a humanized antibody.

102. (New) The method of claim 98 wherein said agonist antibody is a human antibody.

103. (New) A method of treating cancer, comprising exposing mammalian cancer cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody, wherein said antibody stimulates apoptosis in said cells upon its binding to said Apo-2 receptor, and wherein

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said antibody binds to an Apo-2 receptor polypeptide having at least about 80% sequence identity to SEQ ID NO:1.

104. (New) The method of claim 103, wherein said cancer cells are lung cancer cells.

105. (Original) The method of claim 103, wherein said cancer cells are colon cancer cells.

106. (Original) The method of claim 103, wherein said cancer cells are glioma cells.

107. (New) A method of inducing apoptosis in mammalian cells expressing Apo-2 receptor comprising exposing mammalian cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody which (a) binds to Apo-2 polypeptide consisting of the contiguous amino acid residues 1 to 411 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*.

108. (New) The method of claim 107 wherein said Apo-2 agonist antibody is a monoclonal antibody.

109. (New) The method of claim 107 wherein said agonist antibody is a chimeric antibody.

110. (New) The method of claim 107 wherein said agonist antibody is a humanized antibody.

111. (New) The method of claim 107 wherein said agonist antibody is a human antibody.

112. (New) The method of claim 107 wherein said mammalian cells expressing Apo-2 receptor are cancer cells.

113. (New) The method of claim 112 wherein said cancer cells are lung cancer cells.

114. (New) The method of claim 112 wherein said cancer cells are colon cancer cells.

115. (New) The method of claim 112 wherein said cancer cells are glioma cells.

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116. (New) A method of inducing apoptosis in mammalian cells expressing Apo-2 receptor comprising exposing mammalian cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide which consists of amino acid residues 54 to 182 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*.

117. (New) The method of claim 116 wherein said Apo-2 agonist antibody is a monoclonal antibody.

118. (New) The method of claim 116 wherein said agonist antibody is a chimeric antibody.

119. (New) The method of claim 116 wherein said agonist antibody is a humanized antibody.

120. (New) The method of claim 116 wherein said agonist antibody is a human antibody.

121. (New) The method of claim 116 wherein said mammalian cells expressing Apo-2 receptor are cancer cells.

122. (New) The method of claim 121 wherein said cancer cells are lung cancer cells.

123. (New) The method of claim 121 wherein said cancer cells are colon cancer cells.

124. (New) The method of claim 121 wherein said cancer cells are glioma cells.

125. (New) A method of treating cancer, comprising exposing mammalian cancer cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody which (a) binds to Apo-2 polypeptide consisting of the contiguous amino acid residues 1 to 411 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cancer cell *in vivo* or *ex vivo*.

126. (New) The method of claim 125 wherein said Apo-2 agonist antibody is a monoclonal antibody.

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127. (New) The method of claim 125 wherein said agonist antibody is a chimeric antibody.

128. (New) The method of claim 125 wherein said agonist antibody is a humanized antibody.

129. (New) The method of claim 125 wherein said agonist antibody is a human antibody.

130. (New) The method of claim 125 wherein said mammalian cancer cells are lung cancer cells.

131. (New) The method of claim 125 wherein said mammalian cancer cells are colon cancer cells.

132. (New) The method of claim 125 wherein said mammalian cancer cells are glioma cells.

133. (New) A method of treating cancer, comprising exposing mammalian cancer cells expressing Apo-2 receptor to an effective amount of an Apo-2 agonist antibody which (a) binds to a soluble extracellular domain sequence of an Apo-2 polypeptide which consists of amino acid residues 54 to 182 of SEQ ID NO:1 and (b) stimulates apoptosis in at least one type of mammalian cell *in vivo* or *ex vivo*.

134. (New) The method of claim 133 wherein said Apo-2 agonist antibody is a monoclonal antibody.

135. (New) The method of claim 133 wherein said agonist antibody is a chimeric antibody.

136. (New) The method of claim 133 wherein said agonist antibody is a humanized antibody.

137. (New) The method of claim 133 wherein said agonist antibody is a human antibody.

138. (New) The method of claim 133 wherein said mammalian cancer cells are lung cancer cells.

139. (New) The method of claim 133 wherein said mammalian cancer cells are colon cancer cells.

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140. (New) The method of claim 133 wherein said mammalian cancer cells are glioma cells.

141. (New) The method of claim 98 wherein said Apo-2 receptor polypeptide has at least about 85% sequence identity to SEQ ID NO:1.

142. (New) The method of claim 98 wherein said Apo-2 receptor polypeptide has at least about 90% sequence identity to SEQ ID NO:1.

143. (New) The method of claim 98 wherein said Apo-2 receptor polypeptide has at least about 95% sequence identity to SEQ ID NO:1.

144. (New) The method of claim 103 wherein said Apo-2 receptor polypeptide has at least about 85% sequence identity to SEQ ID NO:1.

145. (New) The method of claim 103 wherein said Apo-2 receptor polypeptide has at least about 90% sequence identity to SEQ ID NO:1.

146. (New) The method of claim 103 wherein said Apo-2 receptor polypeptide has at least about 95% sequence identity to SEQ ID NO:1.

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In Re Adams, et al.
Application No. 10/052,798
Appeal Brief

9. EVIDENCE APPENDIX

- Copy of Express Abandonment filed in U.S.S.N. 09/396,710 with fax filing receipt

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	Patent Docket P1101P2/22338-00901
Avi J. Ashkenazi	Group Art Unit: 1646
Confirmation No. 7837	Examiner: Claire M. Kaufman
Serial No.: 09/396,710	
Filed: September 15, 1999	
For: APO-2 RECEPTOR ANTIBODIES	

EXPRESS ABANDONMENT UNDER 37 CFR 1.138

Commissioner of Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant herewith expressly abandons the above-captioned application, without disclaimer of the right of the Applicant to present and secure in the future claims to subject matter that corresponds or is related to the claims of this application. The express abandonment of this application is not being made in response to any pending rejection of the subject matter of the claims. Applicant further observes that this express abandonment is made concurrently with the filing of a continuation application of U.S.S.N. 09/396,710.

Respectfully submitted,

Date: April 14, 2006

By: _____
Jeffrey B. Kushan
Reg. No. 43,401
Attorney for Applicant

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DC1 838805v.1

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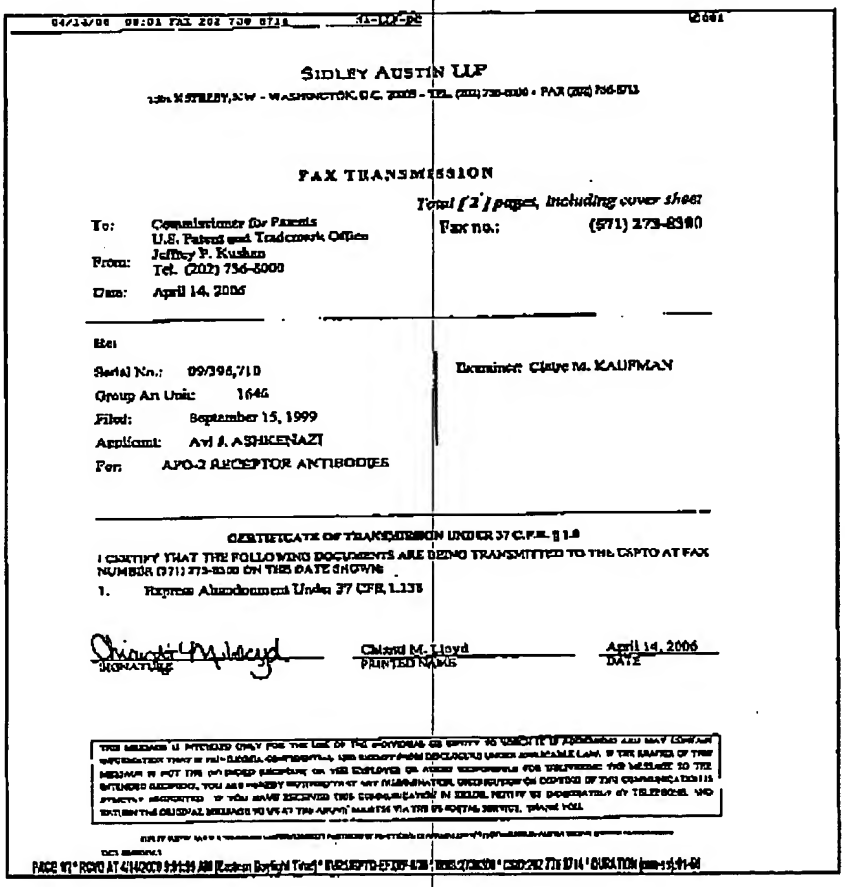

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10. RELATED PROCEEDINGS APPENDIX

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